

3/14/80

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ACTION HA-05

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INFO OCT-01 ARA-11 EUR-12 IO-14 ADS-00 CIAE-00 DODE-00
PM-05 H-01 INR-10 L-03 NSAE-00 PA-01 SP-02 SS-15
NSCE-00 SSO-00 ICAE-00 INRE-00 TRSE-00 SY-05
DCT-02 OCS-06 CA-01 /094 W

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FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC IMMEDIATE 4649
INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY BRUSSEL
USMISSION GENEVA
AMEMBASSY LA PAZ
AMEMBASSY MONTEVIDEO
USMISSION USUN NEW YORK
MAMEMBASSY ROME 798
AMEMBASSY SANTIAGO
USCINCSO QUARRY HTS

ARGENTINA PROJECT (S200000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
(☒ Release) (☐ Excise) (☐ Deny)

Exemption(s): _____
Declassify: (☐ In Part) (☒ In Full)
(☐ Classify as _____) (☐ Extend as _____) (☐ Downgrade to _____)
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E.O. 12065: XDS-4 3/14/10 (CASTRO, RAUL H.) OR-M
TAGS: SHUM AR SREF
SUBJECT: (U) HUMAN RIGHTS SUMMARY - MARCH 8-14, 1980

REF: BUENOS AIRES 2043

1. [REDACTED] SUMMARY: WE WERE GIVEN SOME MORE OF THE GOA
THINKING ABOUT THE IAHRC REPORT ON ARGENTINA. THE
MESSAGE WAS THE SAME--IT DOESN'T LIKE IT--BUT THE
MESSENGER AND THE ARGUMENTS ARE MORE SOPHISTICATED.

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WE ALSO RECEIVED ANOTHER SIGN THAT THE OPTION PROGRAM
IS NOT GOING WELL. END SUMMARY.

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2. [REDACTED] EXDS-4) MORE ON GOA REPLY TO IAHRC
THE GOA, APPARENTLY UNHAPPY WITH THE LONG REPLY TO THE
IAHRC REPORT ON ARGENTINA PRODUCED BY ITS CIVILIAN AND
MILITARY BUREAUCRATS, TURNED TO FORMER SUPREME COURT
JUDGE JULIO OYHANARTE TO PRODUCE A SHORTER SUPPLEMENTAL
PRECIS OF THE ARGENTINE POSITION. OYHANARTE TOLD
EMBOFF THIS WEEK THAT THE GOA'S OBJECTIONS TO THE IAHRC
REPORT WERE MANY, INCLUDING:

1) THE COMMISSION INSULTED ARGENTINE SOVEREIGNTY AND
DIGNITY BY THE TONE OF ITS REPORT. THE COMMISSION'S
STANCE IS ONE OF "TUTOR TO A RECALCITRANT CHILD." NOT
ONLY DOES SUCH A PEREMPTORY TONE OFFEND THE GOA IT
ALSO, OYHANARTE IMPLIED, PUTS THE GOVERNMENT IN AN
EMBARRASSING POSITION BEFORE THE PUBLIC AND THE
ARGENTINE MILITARY;

(2) THE REPORT CONTAINS 18 NAMES OF OFFICERS, AND THIS
INCLUSION IS A VIRTUAL "INVITATION TO THEIR ASSASSINATION"
--IF NOT TODAY THEN SOMETIME IN THE FUTURE. OYHANARTE
RECALLED THE 1970 MURDER BY TERRORISTS OF GENERAL
ARAMBURU FOR HAVING DEPOSED PERON FIFTEEN YEARS EARLIER;

(3) THE REPORT FAILED IN ANY MEANINGFUL WAY TO TAKE
THE TERRORIST WAR AGAINST THE ARGENTINE STATE INTO
ACCOUNT, AND THUS WAS HISTORICALLY AND JURIDICALLY
UNBALANCED.

(4) THE REPORT'S ATTACK--AGAIN ACCORDING TO OYHANARTE--
ON THE ARGENTINE JUDICIARY IS UNCALLED FOR AND INACCURATE.

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THE REPORT DISPLAYS IGNORANCE OF LEGAL PRACTICE BOTH
IN ARGENTINA AND ELSEWHERE WHEN IT CRITICIZES THE ACTIONS
OF ARGENTINE COURTS.

3. [REDACTED] - XDS-4) OYHANARTE ALSO OUTLINED HIS COMMENTARY
ON THE IAHRC REPORT. THE POINTS HE MAKES HAVE BEEN
HEARD BEFORE, BUT SELDOM WITH SUCH ERUDITION AND
SOPHISTICATION. THE ESSENCE OF OYHANARTE'S ARGUMENT IS
THAT THE ARGENTINE STATE FOUND ITSELF BEFORE A THREAT
TO ITS SURVIVAL FROM TERRORISTS. SUCH SITUATIONS, HE
ARGUES, AUTHORIZE THE STATE TO USE ALL MEANS TO RESIST,
EVEN THOSE WHICH VIOLATE NORMS AND LAWS THAT APPLY IN
TIMES OF PEACE AND ORDER. IN MAKING THE ARGUMENT,

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OYHANARTE APPEALS NOT ONLY TO HISTORIC ARGENTINE LAW AND PRACTICE BUT ALSO TO UNITED STATES PRECEDENTS. HE CITES, AMONG OTHERS, THE US SUPREME COURT, ALEXANDER HAMILTON, THOMAS JEFFERSON, AND EVEN OLIVER WENDELL HOLMES. OYHANARTE ALSO ATTEMPTS TO DEAL WITH THE ARGUMENT MADE BY THE IAHRC THAT EVEN IF THE GOA COULD CLAIM EXCEPTIONAL POWERS DURING THE WAR ON SUBVERSION THESE POWERS AUTOMATICALLY TERMINATED IN EARLY 1978 WHEN THE GOVERNMENT DECLARED THE WAR OVER AND WON. OYHANARTE'S BRIEF STATES THAT THOUGH THE WAR ENDED THE SUBVERSIVES CONTINUE TO HAVE A RESIDUAL ABILITY TO ACT AGAINST THE GOVERNMENT. MOREOVER, HE STATES, THERE ARE PRECEDENTS (WHICH HE CITES) IN BOTH ARGENTINE AND US DECISIONS WHICH ALLOW GOVERNMENTS TO CONTINUE TO EXERCISE EXCEPTIONAL WAR POWERS SO LONG AS THE "EVILS" CAUSED BY THE WAR CONTINUE, EVEN IF HOSTILITIES HAVE CEASED.

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4. [REDACTED] OTHER CLOUDS ON PAROLE PROGRAMM -----

THE GOA HAS REFUSED AN UNUSUALLY LARGE PERCENTAGE OF OUR MOST RECENT REQUESTS FOR CONSULAR INTERVIEWS WITH PRISONERS WHO HAVE APPLIED TO OUR HEMISPHERIC PAROLE PROGRAM. A LIST OF 59 NAMES SUBMITTED TO THE GOA WAS RETURNED TO US WITH ONLY 7 APPROVALS, OR ABOUT 12PERCENT. THE APPROVAL RATE ON PREVIOUS LISTS HAD RUN AT ABOUT 35PCT. AS USUAL, NO REASON WAS OFFERED BY THE GOA FOR THE DENIALS, WHICH INCLUDED ELEVEN PRISONERS WITH WHOM INTERVIEWS HAD BEEN AUTHORIZED IN THE PAST. IT IS DIFFICULT TO CONCLUDE EXACTLY WHAT THIS LOW RATE OF [REDACTED]
[REDACTED]

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INTERVIEWS APPROVALS MEANS. FOR THE FIRST TWO MONTHS OF THIS YEAR THE GOA HAS GRANTED US 4 OPTIONS IN JANUARY, AND FIVE IN FEBRUARY -- A RATE CONSISTENT WITH PAST MONTHLY AVERAGES. BUT IF WE CONTINUE TO GET SUCH A HIGH RATE OF TURN-DOWNS FOR INITIAL INTERVIEWS IT IS REASONABLE TO CONCLUDE THAT THE RATE OF OPTION APPROVALS MAY ALSO DROP OFF. ONE FACTOR AT PLAY MAY BE THAT AS THE POOL OF PEN PRISONERS IS REDUCED, THE PERCENTAGE OF PRISONERS WHOM THE GOVERNMENT BELIEVES ARE DANGEROUS TERRORISTS (AND THUS INELIGIBLE FOR OPTION) IS PROBABLY RISING. WE ALSO SUSPECT, THAT THE GOA'S GROWING DISENCHANTMENT WITH THE OPTION PROGRAM IS AT WORK.

5. [REDACTED] THE HUMAN RIGHTS GROUPS PROTEST ANZOATEGUY -----

ARGENTINA'S THREE MAJOR HUMAN RIGHTS ORGANIZATIONS HAVE MADE PUBLIC A MEMORANDUM THEY RECENTLY SUBMITTED TO JUDGE ANZOATEGUY, THE MAN WHO ORDERED THEIR MAIN OFFICES SEARCHED LAST MONTH. THE PERMANENT ASSEMBLY, THE ECUMENICAL MOVEMENT FOR THE RIGHTS OF MAN, AND THE ARGENTINE LEAGUE FOR THE RIGHTS OF MAN (THE LIGA) PROTESTED IN THE MEMORANDUM THAT THE SUPPOSEDLY SECRET RESULTS OF THE AUDGE'S INVESTIGATION HAVE BEEN LEAKED TO THE PRESS, BUT THAT THEY HAVE NOT HAD ACCESS TO THEM. AS FAR AS WE CAN TELL, ANZOATEGUY'S INVESTIGATION CONTINUES TO GRIND ALONG. HOWEVER, OUR HUMAN RIGHTS CONTACTS EXPRESS CONFIDENCE THAT IT WILL PRODUCE NOTHING LEGITIMATELY EMBARRASSING OR COMPROMISING TO THE ORGANIZATION.

6. (U) "DISAPPEAREDS" RESOLUTION IN THE US CONGRESS -----
SO FAR THE BUENOS AIRES PRESS HAS REPORTED AS STRAIGHT NEWS A HOUSE RESOLUTION CONDEMNING AS "TERRORIST" GOVERN-

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MENTS WHICH DETAIN PEOPLE CLANDESTINELY, EXPECT FOR
THE BUENOS AIRES HERALD WHICH APPLAUDED THE HOUSE ACTION
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AND LINKED IT WITH DISAPPEARANCES IN ARGENTINA. NEW
REPORTING ON THE HOUSE DISCUSSION OF THE MEASURE
(WHICH PASSED 343 TO 3, WITH 86 MEMBERS NOT VOTING)
QUOTES CONGRESSMAN DEWWINSKI SAYING THAT THE CONCERN
OF SOME MEMBERS THAT THE RESOLUTION WAS DIRECTED
AGAINST ARGENTINA WAS UNFOUNDED--THAT COUNTRIES "ON
BOTH SIDES OF THE IRON CURTAIN" WERE INTENDED.
ILLINOIS REPUBLICAN HENRY HYDE WAS QUOTED AS SAYING THAT
ARGENTINA AND CHILE WERE "AMATEURS" IN THE DISAPPEARANCES
GAME WHEN COMPARED WITH THE SOVIET UNION. COMPANION NEWS
STORIES REPORTED THAT COMMITTEEMEN FROM COSTA RICA,
GHANA, IRAQ, THE UNITED KINGDOM AND YUGOSLAVIA HAD BEEN
NAME TO FOLLOW UP--"IN ARGENTINA AND OTHER COUNTRIES"--
A RECENT UNHRC RESOLUTION ON DISAPPEARANCES AS A WORLD
PHENOMENON.
CASTRO

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